

1 JOHN F. KRATTLI, Acting County Counsel
2 ROGER H. GRANBO, Assistant County Counsel
3 JENNIFER A.D. LEHMAN, Principal Deputy County Counsel
(SBN 191477) • *jlehman@counsel.lacounty.gov*
4 648 Kenneth Hahn Hall of Administration
500 West Temple Street
5 Los Angeles, California 90012-2713
Telephone: (213) 974-1908 • Fax: (213) 626-2105
6 Attorneys for Defendant
7 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 ROBERT THOMSON,

12 Plaintiff,

13 v.

14 TORRANCE POLICE
15 DEPARTMENT and THE LOS
ANGELES COUNTY SHERIFF'S
16 DEPARTMENT,

17 Defendants.

CASE NO. CV 11-06154 SJO (JCx)

**OBJECTIONS TO PLAINTIFF'S
EVIDENCE IN OPPOSITION TO
LASD DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

MSJ Date: February 27, 2012
Time: 10:00 a.m.
Ctrm: 1

Action Filed: July 26, 2011
Trial Date: None set

19 Defendant Los Angeles County Sheriff's Department (LASD) objects to
20 Plaintiff's evidence in Opposition to the LASD's Motion for Summary Judgment
21 as follows:

22 **Declaration of Lawrence Mudgett**

23 Initially, Plaintiff offers the declaration of Lawrence Mudgett, a retired
24 Chief Firearms Instructor from the Los Angeles Police Department, to opine
25 regarding nationwide public policy and statistics regarding concealed weapons
26 permit (CCW) possession and violence. Defendant objects under Federal Rule of
27

1 Evidence 702 that Mr. Mudgett is not qualified to provide such testimony. Mr.
2 Mudgett's credentials and curriculum vitae do not indicate that he has any
3 expertise in nationwide public policy matters related to firearms.

4 Defendant further objects as follows;

5 1. **Paragraph 3:** "The need to Carry concealed is due only to the
6 decision of the California legislature to make that the only method of permissible
7 carry having, otherwise banned the possession of a loaded firearm by law abiding
8 citizens and further, even the possession of an unloaded weapon within 1000 feet
9 of a school, which in Southern California would make travel nearly an impossible
10 task."

11 **Objection:** Lacks Foundation, Improper Expert Opinion, Calls for a
12 Legal Conclusion not within Declarant's Expertise. FRE 402, 602, 701, 702-704,
13 802.

14 2. **Paragraph 4:** "The reality is 49 states now recognize the citizens to
15 carry a functional handgun in a concealed manner, either by constitutional
16 amendment, "Shall Issue" system or "Good Cause": 35 states have "shall issue"
17 permit laws that usually require states to issue permits to those who meet legal
18 requirements; 10 others have "may issue" or discretionary permit laws. Vermont,
19 Arizona, Alaska and Wyoming do not require a permit to carry a concealed
20 weapon.

21 **Objection:** Irrelevant, Lacks Foundation, Improper Expert Opinion,
22 Calls for a Legal Conclusion not with Declarant's Expertise. FRE 402, 602, 701,
23 702, 703, 802.

24 3. **Paragraph 5:** "It is my opinion, based upon my education, training
25 and experience that increased training reduces the risk of accident, injury and
26 misuse of firearms. For example, when the LAPD Firearms Training Unit
27 increased the quality of their firearms training program, both negligent and

1 accidental discharges were reduced."

2 **Objection:** Irrelevant, Lacks Foundation, Improper Expert Opinion,
3 Calls for a Legal Conclusion not with Declarant's Expertise. FRE 402, 602, 701,
4 702, 802.

5 4. **Paragraph 6:** "According to studies armed citizens kill more
6 criminals in self-defense than our Nation's police officers by about 2 to 1. It is
7 my opinion based upon my education, training, and experience that criminals tend
8 to fear armed citizens more than they fear law enforcement officers and that the
9 increase in the number of citizens who now carry concealed weapons is a
10 significant factor in the distinct and significant drop in violent crime each year
11 (according to the FBI statistics)."

12 **Objection:** Lacks Foundation, Improper Expert Opinion, Calls for a
13 Legal Conclusion not Within Declarant's Expertise; Best Evidence Rule. FRE
14 402, 602, 701, 702, 703, 802.

15 5. **Paragraph 7:** "It is my opinion, based upon my education, training
16 and experience that over the last 30 years the availability of concealed carry has
17 increased dramatically from about 10 states to over 49 currently. It is also
18 interesting to note that 4 states now have Constitutional Carry Laws. Wyoming
19 Alaska, Vermont and Arizona allow any citizen who is not prohibited from
20 possessing a handgun to carry it concealed. The legislatures of Utah and other
21 states are considering adopting similar law. When considering the success that
22 other states have had with the "shall issue system," we must wonder why LE
23 officials do not believe that the same result would occur in CA. One can only
24 conclude that LE officials must believe that California residents are somehow
25 different than the residents of other states. California residents must be deemed
26 less trustworthy, less restrained, more violent, more prone to commit crimes, etc."

27

28 HOA.860437.1

CV 11-06154 SJO (JCx)
OBJECTION TO PLAINTIFF'S EVIDENCE IN
OPPOSITION TO LASD MSJ

1 **Objection:** Irrelevant, Lacks Foundation, Improper Expert Opinion,
 2 Calls for a Legal Conclusion not with Declarant's Expertise. FRE 402, 602, 701,
 3 702, 703, 802.

4 6. **Paragraph 8:**

5 a) "It is my opinion, based upon my education, training, experience, and
 6 being familiar with firearms research, regulation, publications, and studies, that
 7 there is no correlation between the issuance of CCW permits and unlawful
 8 violence."

9 b) "...CCW permit holders are not in any way likely to increase crime or
 10 violence, and among the gun owning population are safer and more likely to
 11 reduce the accident rate because of their increased training and awareness. What
 12 facts I am aware of indicate that armed and trained citizens reduce crime by their
 13 very existence, as criminals do not know which citizens are in fact armed."

14 **Objection:** Hearsay, Speculation, Lacks Foundation, Improper
 15 Expert Opinion, Calls for a Legal Conclusion not Within Declarant's Expertise.
 16 FRE 402, 602, 701, 702, 802.

17 7. **Paragraph 9:** "The declaration of Franklin Zimring is not consistent
 18 with my knowledge, training, or experience. Mr. Zimring expresses theories
 19 which are not related to CCW permits and are not consistent with any peer
 20 reviewed statistics. By way of example, one of the undisputed facts used by
 21 Zimring was the so called fact that 39 percent of people who commit murder had
 22 at the time no disqualifying convictions. My first thought is that these are
 23 juveniles who commit a good percentage of the crime in Los Angeles. Their
 24 juvenile arrests may not be used against them as adults and they may comprise a
 25 portion of this supposed 39 percent. The second factor is people who are arrested
 26 for serious crimes in LA are often allowed to plea the case down to a far lesser
 27 crime and the minor crime is the one they are actually convicted of. These are

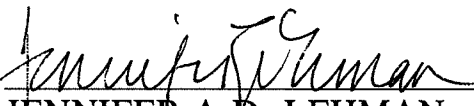
1 weaknesses in the criminal justice system that should not be used to deny you the
2 right of self-defense. I find the statistics suspicious in any case."

3 **Objection:** Hearsay, Misstates Zimring Declaration; Speculation,
4 Lacks Foundation, Improper Expert Opinion, Calls for a Legal Conclusion not
5 Within Declarant's Expertise. FRE 402, 602, 701, 702, 703, 802.

6
7 DATED: February 10, 2012

Respectfully submitted,

8 JOHN F. KRATTLI
9 Acting County Counsel

10 By 
11 JENNIFER A.D. LEHMAN
12 Principal Deputy County Counsel

13 Attorneys for Defendant
14 LOS ANGELES COUNTY SHERIFF'S
15 DEPARTMENT
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